



FEDERAL STUDENT AID

We Help Put America Through School

Moore

Case Management Division Northeast
The Wanamaker Building
100 Penn Square East, Suite 511
Philadelphia, PA 19107-3322

April 18, 2003

John J. DeGioia, Ph.D.
President
Georgetown University
204 Healy Hall, Box 571789
37th & O Streets, NW
Washington, DC 20057

Certified Mail
Return Receipt Requested
7001 1940 0003 4873 5347

OPE ID: 00144500

Dear Dr. DeGioia:

I am writing to advise your office of a recent complaint filed against Georgetown University and to request your assistance in resolving the issues raised by the complainants. On March 3, 2003, Security on Campus, Inc., a non-profit national advocacy group, [REDACTED] a Georgetown University student, contacted this office and filed a joint complaint alleging violations of the Jeanne Clery Disclosure of Campus Security Policy and Campus Crime Statistics Act (Clery Act). Additionally, the complaint alleges violations of the Campus Sexual Assault Victim's Bill of Rights. Subsequent to our receipt of the complaint, this office requested and received certain additional documentation from the [REDACTED] family for our consideration and review. Through subsequent research, we have learned of additional cases where parties, including [REDACTED], whose son [REDACTED] was killed while attending the University, have made similar complaints regarding the University's campus security operations in general and its practice of requiring the execution of non-disclosure agreements as a condition for accessing judicial board outcomes in particular.

Specifically, the complainants allege that the University placed certain conditions on [REDACTED] right to gain access to records generated and maintained by the University's Office of Student Conduct pursuant to the adjudication of a fall 2001 sexual assault. According to the complaint, University officials advised [REDACTED] that she would be denied access to the findings reached and sanctions imposed through the judicial process unless she signed a nondisclosure agreement. [REDACTED] also stated that she signed the agreement, "because I needed to know the outcome not only for my peace of mind but also to make decisions about where I would feel safest attending school."

The co-complainant, Security on Campus, Inc. also noted that the University's annual Campus Security Report does not accurately reflect the institution's disclosure policy and characterized the manner in which [REDACTED] was treated as an "unconscionable revictimization." Please note that [REDACTED], with the assistance of Security on Campus, Inc., also has filed a complaint with the U.S. Department of Education – Office of Civil Rights alleging violations of her civil rights arising from the same incident.

We are only in the early stages of evaluating the claims raised by the complainants. In accordance with our procedures, the University is afforded an opportunity to respond to the complainants' allegations and present information in support of their position. As such, we have not arrived at a Final Determination regarding this matter.

However, we do take notice of Federal regulations at 34 CFR § 668.46 (b)(11)(vi)(B) specifically cited by the complainants. In part, these regulations state the following,

"Both the accuser and the accused must be informed of the outcome of any institutional disciplinary proceeding brought alleging a sex offense. Compliance with this paragraph does not constitute a violation of the Family Educational Rights and Privacy Act (20 USC 1232g). For the purpose of this paragraph, the outcome of a disciplinary proceeding means only the institution's final determination with respect to the alleged sex offense and any sanction that is imposed against the accused."

The allegations by the complainants and the University's response requested below will have to be evaluated further with the following items in mind. Firstly, it should be noted that while the exception to the FERPA statute noted above is rare and limited, it is not methodologically unique. Indeed, the FERPA statute itself also permits disclosure of outcomes and sanctions in cases of violent crimes and non-forcible sex offenses. Secondly, the United States Congress carved out these exceptions precisely so that victims could use such information in their recovery process and for other purposes. Moreover, a plain reading of the Federal regulations noted above does not seem to indicate that an institution may impose conditions on re-disclosure even though re-disclosure is prohibited in other contexts. Finally, it must be emphasized that the protections granted by FERPA principally rest with the affected students not the University.

However, as stated previously, we will have to consider the matter more completely before making a Final Determination as to whether or not the University has violated the Clery Act or other Federal statutes and/or regulations. As part of our review process, we will need to evaluate additional information from the complainant and the University. In furtherance of our efforts, we respectfully request that you direct the appropriate University officials to prepare a response to concerns raised by the complainants. In addition, the University's response must fully address and describe all of the following items both as a matter of general policy and as applied in the case of [REDACTED]

1. All policies and procedures regarding Georgetown's judicial board process including but not limited to the composition of the tribunal, its mission, a statement on its theory of "punishment," and its methods for imposing and enforcing sanctions;
2. A presentation of the legal authority that the University relied upon in the construction of its nondisclosure agreement policy. This response should state with particularity why these agreements do not violate the relevant sections of the Clery Act and/or FERPA discussed above and why these Federal statutes do not preempt this University policy.
3. A response to the allegation raised by the complainants that they are barred even from sharing judicial outcomes and sanctions with certain close family members and non-University related legal or mental health counselors.
4. An accounting of how many cases have gone before the judicial board and the number of non-disclosure agreements that have been executed by calendar year for 1999, 2000, 2001, 2002, and thus far in 2003. Please also advise whether or not non-disclosure agreements are required to access outcomes and sanctions in all judicial cases or only in specific types of cases.
5. A description of any and all other disciplinary, judicial, and/or alternative dispute resolution systems in place at the University. This response should cover any special programs or systems of adjudication in place for athletic programs, fraternities and sororities, residence life, and/or Colleges and schools within the University. Please provide statistics on the number of cases that have come before each board and the number of non-disclosure agreements executed as a condition of accessing information on outcomes reached and sanctions imposed by each board.
6. Copies of all relevant publications including Campus Security Reports, Student Handbooks, and any other documentation provided to staff and students that address any and all of the University's adjudication programs.
7. Copies of all relevant documents developed by the Office of Student Conduct or other office that administers any other student adjudication program to include information on jurisdiction, policies, procedures, missions, sanctioning guidance, and enforcement mechanisms.
8. An explanation of the University's policies and procedures for "aftercare" for victims of sexual assaults and other violent crimes to include counseling resources, healthcare, residence life programs, or other initiatives or accommodations.
9. All internal guidance, policies, and procedures for the issuance of "timely warnings" as required by the Clery Act. Please advise if a timely warning was issued in the Dieringer case. If a warning was issued, please provide a copy. If one was not, please explain why a warning was not issued.
10. Copies of all documents necessary to support any and all representations made and positions taken in your response.

*Dr. John J. DeGioia
President
Georgetown University
Clery Act Complaint – Page # 4*

Please submit your response within 15 days of receipt of this letter to:

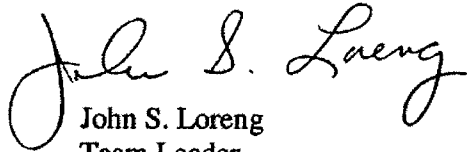
Ms. Nancy P. Klingler
Area Case Director
U.S. Department of Education
The Wanamaker Building
100 Penn Square East, Suite 511
Philadelphia, PA 19107

The University's response is intended to provide a full opportunity to provide information regarding these issues before this office arrives at any Final Determinations. After your response is received and thoroughly reviewed, this office will advise the University of our findings. If we find the University's policy to not be in violation and no other violations of applicable statutes and/or regulations are identified, we will advise the parties of our conclusions in writing and the matter will be closed.

If violations are noted, we will advise the University of the exceptions, required corrective actions, and other appropriate measures that may be needed to bring the University into compliance with Federal statutes and regulations.

We appreciate your anticipated assistance and cooperation as we work together to resolve this important matter. If you have any questions, please call Mr. James Moore of this office on (215) 656-6442.

Sincerely,


John S. Loreng
Team Leader

cc: Todd A. Olson, Ph.D., Assoc. VP for Student Affairs
Ms. Jeanne Lord, Assoc. Dean and Director of Off-Campus Student Life
Ms. Judy D. Johnson, Director of Student Conduct